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THE BUREAU OF THE BUDGET: ITS DEVELOPMENT AS A TOOL OF EFFECTIVE EXECUTIVE LEADERSHIP

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THE BUREAU OF THE BUDGET--

ITS DEVELOPMENT AS A TOOL OF EFFECTIVE EXECUTIVE LEADERSHIP

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PREFACE

It appears that relatively few people are acquainted with the many and varied functions performed by the Bureau of the Budget outside of the role it plays in the formulation and execution of the President's annual budget. The functions currently assigned to the Bureau go well beyond the mere arithmetic and mechanics of budget review. For the Bureau, solely and exclusively, forms the principal instrument through which the President is able to coordinate his many constitutional duties and, at the same time, obtain coldly objective judgements about how best to discharge these duties.

It is the purpose of this paper to trace the development of the Bureau of the Budget, by means of its various functions, from its inception until the present time. No attempt will be made to cover all the functions involved, as this would be a tremendous undertaking, and is really beyond the scope of this paper. Instead, an attempt will be made to show how the so-called main functions became part of the Bureau's workload, with particular emphasis on the statutory and presidential authority involved.

At the same time, it becomes evident that the adoption of a national budget system and the creation of the Bureau of the Budget in 1921, significantly strengthened the position of the President as the Chief Administrator of the Government.

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CHAPTER I

HISTORICAL BACKGROUND

The Need for Executive Leadership

With the exception of the White House itself, the Bureau of the Budget stands as the oldest, the largest, and most highly organized of all the Executive Staff agencies in existence today. While it has not always been as large, nor as nationally significant, nor as indispensable to the President, the Bureau has a history as intriguing as the controller movement in American business.

The Bureau of the Budget was created by section 207 of the Budget and Accounting Act of 1921.[1] This act is considered a milestone on the way to effective public administration and management in the United States. It established a national budget system, revolutionizing the entire process for formulating and executing the financial program of the federal government. As the foundation of budgetary planning and control, the act not only fostered responsible determination of the government's financial requirements, but it also committed the executive branch to a higher standard of administration in all of its activities.

The adoption of this important piece of legislation has been universally hailed as one of the most far reaching steps taken

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[1]U. S. Statutes, Budget and Accounting Act, 1921, 42 Stat. 20; 31 U.S.C. 1.

toward strengthening the management responsibilities of the Chief Executive. It came, however, only after more than a half-century of agitation by students of government and private management who had explored the need for placing the President more directly in the channels of administration, that he might begin to operate with real effectiveness as the chief administrator.[2]

Even in the early days of the Constitution, and as late as the turn of the century, the President assumed little responsibility for framing the financial program of the federal government. It seems the formulation and execution of the financial program of the United States was left almost entirely to the individual spending agencies. Departments tended to function as separate principalities, each oblivious to other services and needs of the government, each pressing its own special needs upon Congress.[3] More specifically, estimates of expenditures were submitted directly to Congress without presidential clearance, and without review or coordination into a unified program. There was no executive machinery to follow through to see that the programs were properly executed. Under conditions such as these, it was virtually impossible to set up standard work policies and practices, with the result that inefficient organization and methods could not be detected and remedied. The President, except in times of national crises problems, had neither the time nor the means for

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[2]Horace W. Wilkie, "Legal Basis For Increased Activities Of The Federal Budget Bureau," The George Washington Law Review, Vol. II (April, 1943), pp. 265-266.

[3]Harold D. Smith, "The Bureau of the Budget," Public Administration Review (Winter, 1951), p. 107.

making many decisions, or for resolving the numerous conflicts which arise in such a large organization. It was impossible to plan the work of the government systematically. Neither could the President keep abreast of what was happening, as there was no single agency for collecting necessary information. The result was conflict, inefficiency, duplication, and irresponsibility.

Under these procedures, the President was often ignored; he was a chief executive in name only, for he was without staff aides to investigate, collect information, and assist him in the performance of his executive duties. It appears that except in times of national crises, the trend has always been in the direction of weakening the position of the President.[4]

The situation existing at the time was summed up very adequately by Mr. Harold D. Smith, a former Director of the Bureau of the Budget when he wrote:

> If the President does not have the means to carry out his executive functions, he becomes a chief of state something like the Dalai Lama, a venerated ruler in whose name all ministerial actions are taken but who is carefully shielded from reality.[5]

Since for the most part the President found himself outside the channels of administration in the late nineteenth and early twentieth centuries, he indeed came fairly close to occupying the same relative position as the Dalai Lama. Thus, the President was forced to rely on exerting his influence mainly by exercising his political power rather than through actual direction of departmental activities by virtue of his position as the chief administrator.

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[4] Ibid. [5] Ibid.

Events Leading to the Establishment of the Bureau of the Budget

Since budgets were of inconsequential proportions in the nineteenth century, few thinking Americans interested themselves in government management. In fact, from 1885 until 1893, receipts exceeded expenditures. During these years an average surplus of 21 per cent was realized, reaching a high of 41 per cent in 1888.[6] This was the period when the major financial problem faced by Congress was the annual disposal of the surpluses received from excessive tariff revenues. Consequently, human nature being what it is, little attention was given to the problem of improving management control over expenditures.

The period of extreme laxity in federal finance and management extended from about 1880 to 1909.[7] The reasons for this attitude become apparent when one considers the writings of James Bryce. As he put it, in rather flowery language, in 1888;

> Under the system of congressional finance here described, America wastes millions annually. But her wealth is so great, her revenue so elastic, that she is not sensible of the loss. She has the glorious privilege of youth, the privilege of committing errors without suffering from their consequences.[8]

Also:

> . . . America lives in a world of her own . . . Safe from attack, safe even from menace, she hears from afar the war-ring cries on European races and faiths,

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[6]U. S. Bureau of the Census, Historical Statistics of the United States: 1789-1945, 1949, pp. 296-299.

[7]Jesse Burkhead, Government Budgeting (New York: John Wiley & Sons, Inc., 1959), p. 11.

[8]James Bryce, The American Commonwealth, Vol. I, (London: Mac Millan & Co., 1891), p. 179.

as the gods of Epicurus listened to the murmurs of the unhappy earth spread out beneath their golden dwellings.[9]

The first serious studies of a national budget began to appear after the turn of the century with the publication of Eugene E. Agger's The Budget in the American Commonwealth, 1907, and S. Gale Lourie's The Budget, 1912.[10] This literature emphasized the fact that the financial devices then in use as expenditure controls[11] for national government activities were actually budgets. In another instance, President Lowell of Harvard pointed out the extent to which the budget idea had in some European countries helped a sound system of executive responsibility, but he did not attempt forging effective remedies for the shortcomings of business management in the national government.[12]

These writings for the most part, it appears, went unheeded by the general public. But when expenditures began to exceed revenues, the budget idea took on a new and meaningful significance, for the surpluses of President Cleveland's day were not as

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[9] Ibid, p. 303.

[10] Edward H. Hobbs, Behind The President (Washington, D. C.: Public Affairs Press, 1954), p. 22.

[11] The executive departments, in accordance with Section 3669 of the Revised Statutes, submitted "annual estimates for the public service . . . to Congress through the Secretary of the Treasury," who had the duty of compiling appropriation requests into a book of estimates. Under the Treasury's organic law of 1789, the Secretary was "to prepare and report estimates of the public revenue, and the public expenditure." In 1800 an amending statute instructed the Secretary "to digest, prepare, and lay before Congress . . . a report on the subject of finance containing estimates of the public revenue and expenditures, and plans for improving or increasing the revenues, from time to time, for the purpose of giving information to Congress in adopting modes of raising the money requisite to meeting the public expenditures."

[12] Hobbs, loc. cit.

persistent after 1894. Out of the nineteen years from 1894 to 1912, there were eleven years in which deficits occurred. Federal expenditures were running between $300 and $400 million in the 1890's. By 1912, they were nearly $700 million.[13] When the national government spent its first billion dollars in a single year, cries against waste and poor business practices were heard. The movement towards a national budget system and responsible government was underway.

The beginning of executive leadership in the formulation of a unified financial plan was found in Section 7 of the Sundry Civil Appropriations Act of 1909.[14] The Act required the President to submit recommendations for a program to meet anticipated deficiencies. About the same time the President began to instruct department heads as to the general policy they should follow with respect to their estimates of expenditures which were to be submitted to Congress. Also, in his report to Congress for the fiscal year ending June 30, 1909, the Secretary of the Treasury, Franklin MacVeagh, repeatedly urged the adoption of an executive budget system.[15] He traced the historical developments which had brought the federal government to the point where the executive had little or nothing to say about the revenues, and where the executive estimates of expenditures were constructed more or less for trading purposes with the appropriation committees.

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[13] U. S. Bureau of the Census, loc. cit.

[14] U. S. Statutes, Sundry Civil Appropriations Act, 1909, 36 Stat. 945.

[15] U. S. Department of the Treasury, Annual Report of the Secretary of the Treasury, June 30, 1909, p. 4.

On March 22, 1909, the Senate appointed a special committee to investigate the deficits being experienced by the federal government. This committee reported that:

> . . . the application to the business of the government of improvements in systems and methods similar to those which have produced the high degree of business efficiency in the great business corporations of the country will result in the saving of many millions of dollars annually and in a much higher degree of efficiency in the conduct of the government business.[16]

The next step was taken by President Taft. In 1911 he appointed a Commission on Economy and Efficiency to study the administrative branch of the federal government in order to ascertain what improvements could be made in its organization and procedures. Upon appointment, the Commission set out to secure information from federal departments and agencies in order to classify financial data according to amounts expended, appropriated, or estimated by organizational unit, by category of function to be performed, by character of outlay, and by amounts expended, appropriated, or estimated under each act of appropriation. Also as a result of discussions with department heads and in consultation with the President, the Commission prepared a set of forms to be used by departments in the submission of budgetary data. The Commission also prepared an organizational chart of the federal government activity and made numerous studies of overlapping and duplicating operations within the government. It was the viewpoint of the Commission that the most significant step which could be

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[16]Henry Jones Ford, The Cost of Our National Government, (New York: Columbia University Press, 1910), p. 105, quoted in Jesse Burkhead, Government Budgeting (New York: John Wiley & Sons, Inc., 1959), pp. 17-18.

taken to improve the organization and procedures of the government was a revamping of the method for determining and providing for the government's financial needs. To put it another way, the Commission believed no worth-while and substantial improvements in the conduct of the government could be effected without the adoption of a national budget system.[17]

Although President Taft was in complete agreement with the conclusions of the Commission and although he submitted a budget for fiscal year 1914 modeled on its suggestions, political differences frustrated his efforts to develop a coordinated budget program. In spite of the fact that the work of the Commission on Economy and Efficiency led to no immediate legislation, it had tremendous value in the long-run. The prestige of the Commission and its strong backing by the President made budgeting an issue of national significance. It stimulated attention to budgetary reform in municipalities and in the states.[18]

This stimulation appeared to pay off, for the movement toward responsible budgeting had made considerable headway among state and local governments before the stage appeared set for federal legislation. Ohio, in 1910, enacted the first state law authorizing the governor to draft a budget for submission to the legislature. Wisconsin and California, in 1911, provided for improvements in state financial procedure, which incorporated some of the features of a budget system. Six states enacted budgetary laws

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[17]Smith, op. cit., p. 108.

[18]Burkhead, op. cit., pp. 19-21.

in 1913. In 1916, Maryland adopted a thorough executive budget-making system. After this, reform spread rapidly; by 1920, 44 states had adopted some form of improvement in budgeting, of which twenty-three had provided for an executive budget.[19]

The legislative deliberations which finally led up to the passage of the Budget and Accounting Act went on for several years. They had their beginnings in a comprehensive plan for a national budget system introduced in the House, in 1918, by Representative Medill McCormick of Illinois.[20] Under this plan the fiscal responsibility of the House was to be concentrated in a single standing committee instead of eight committees, each working on a single segment of the Treasury's "book of estimates."

Also, as the country emerged from World War I with annual expenditures and a national debt beyond all precedent, the conviction had grown strong that a clean break with a weak fiscal procedure was in order. It seemed that Congress was determined to seek a new solution whose strength would lie in the manner in which it worked.[21] Their sights set, Congress began approaching the subject of revising and improving financial administration in a nonpartisan spirit. The legislative debate boiled down more or less to matters of a technical nature rather than to the issue of the desirability of a national budget system.[22] One question which appeared to

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[19]Frederick A. Cleveland and Arthur Eugene Buck, The Budget and Responsible Government (New York: The Mac Millan Company, 1920), p. 124.

[20]U. S., Congress, House Document No. 1006 (1918), 65th Cong., 2d Sess.

[21]U. S., Executive Office of the President, Bureau of the Budget, Staff Orientation Manual, April 1958, p. 2.

[22]Hobbs, op. cit., p. 26.

remain unanswered at the time was whether or not an executive budget system should be adopted.

The House Select Committee on the Budget appointed in 1919 reported favorably on an executive budget system. Opposition to this type of budget system came from Congressional "die-hards" such as Speaker of the House Joseph Cannon, who argued that,

> . . . when Congress consents to the Executive making the budget it will have surrendered the most important part of a representative government, and put this country back where it was when the shot at Lexington was heard "round the world."[23]

Fortunately, this kind of opposition appeared not to have been taken very seriously, for the House of Representatives took favorable action on the report of the Select Committee on October 21, 1919. The Senate completed its action on the measure in May of 1920.

A presidential veto on this first enactment held up final action until 1921, when President Harding signed the bill. Wilson had not opposed the law on principle, but he objected to the provision which prevented the President from removing the Comptroller General,[24] and yet permitted Congress to do so on the basis of a concurrent resolution. Under the Act of 1921, the President still may not remove the Comptroller General, but the Congress must act by Joint Resolution, which requires the use of the President's executive veto. Thus, the President becomes at least a partner in the dismissal.

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[23] Cleveland and Buck, op. cit., pp. 101-102.

[24] 42 Stat. 20; 31 U.S.C. 1, Title III.

Establishment of the Bureau of the Budget

The bill, which was finally approved by President Harding on June 10, 1921, is known as the Budget and Accounting Act of 1921. This Act made a number of important changes in the financial management of the federal government. The most significant was the establishment of a national budget system by creating the Bureau of the Budget in the Department of the Treasury, administered by a Director responsible only to the President.[25]

Prior to the passage of the Act, it is interesting to note that both the House Select Committee and its equivalent in the Senate spent a great deal of time exploring the kind and scope of activities envisaged for the Bureau of the Budget. A study of the hearings reveals that much of the testimony looked far beyond the consolidation aspects of the money items for the budget document. Instead of regarding budgeting simply as a series of steps required in framing a budget, committee witnesses related the entire budget process to the general responsibility for administrative planning and management centered in the President.[26]

One of these witnesses, Dr. William F. Willoughby, Director of the Brookings Institute for Government Research, suggested the value of centralized information when he told the House Select Committee that the Budget Bureau,

> . . . should know all about the Government, its organization, activities, and methods. This means that it should be a central bureau that will keep fully informed

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[25] Ibid, Section 207.

[26] Fritz Morstein Marx, "The Bureau of the Budget: Its Evolution and Present Role," The American Political Science Review (August 1945), p. 661.

> as to how the Government is organized, what are its activities, what are the methods that are employed in performing those activities, what are the laws and regulations governing the various services in the performance of their duties, and information of that kind.[27]

Being so widely informed, the Budget Bureau would know of good as well as bad administrative practices. It could:

1. Bring about a standardization of the most efficient methods.

2. Unravel organizational knots.

3. Stimulate the development of management services within the departments.

4. Secure understanding for the President's general program and in turn find out whether or not these plans and projects, legislative or administrative, actually conformed to the President's policy.[28]

Former Assistant Secretary of the Treasury Charles D. Norton, a businessman who had helped President Taft organize the Commission on Economy and Efficiency, testified:

> It seems to me that the President would need in his Staff some one who would be an executive manager so to speak. And in the same way each Cabinet officer might well have what I have often heard them plead for, either an undersecretary or administrative secretary, whatever he might be called, a sort of business aide to each Secretary with whom the President's budget staff could confer directly. Then the budget staff would not be put in a position of spying upon Cabinet officers, but there would be created a group of associates, partners, if you please, whose particular duty was that of analysis and balancing the various projects of the administration.[29]

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[27]U. S., Congress, House, Select Committee, Hearings, Establishment of a National Budget System, 66th Cong., 1st Sess., 1919, p. 81.

[28]Marx, op. cit., p. 662.

[29]House Select Committee Hearing, op. cit., p. 179.

As a result of such statements, the head of the Budget Bureau was visualized, not as a diplomat or fixer, but as a fact-minded staff officer of the President. In this regard, Representative Garner of Texas described the Budget Director as a man of power, whose power was derived directly from the President himself. The new Director would be "the President's man." If the President appoints a man with courage, a man who will do his duty, he will be the second most important man in the executive department of the government.[30]

Being "the President's man," the Budget Director was intended to have the President's ear. To enable the Budget Director to speak for the President and to act with the President's continuing support, close contact between the two would be indispensable. Because of this feeling, Representative Good of Iowa, Chairman of the House Select Committee and the man who probably deserves much credit for making the Budget and Accounting Act what it came to be, was not in favor of putting the Bureau in the Treasury Department. However, he did not contest the point very strongly, as he believed it made very little difference where the Bureau was placed so long as the working relationship between the Director and the President was maintained.[31]

In addition to its budgetary functions,

> The Bureau, when directed by the President, shall make a detailed study of the departments and establishments for the purpose of enabling the President to determine what changes (with a view of securing greater economy and efficiency in the conduct of the public service) should be

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[30]Bureau of the Budget, Staff Orientation Manual, op. cit., p. 6.

[31]Ibid, p. 7.

> made in (1) the existing organization, activities, and methods of business of such departments or establishments, (2) the appropriations therefor, (3) the assignment of particular activities to particular services, or (4) the regrouping of services. The results of such study shall be embodied in a report or reports to the President, who may transmit to Congress such report or any part thereof with his recommendation on the matters covered thereby.[32]

While making the Budget Bureau an establishment of the President operating under his constitutional power over the executive branch, the Act at the same time required the Bureau;

> . . . at the request of any committee of either House of Congress having jurisdiction over revenue or appropriations, furnish the committee such aid and information as it may request.[33]

In comparison with the legislation which it replaced, the Budget and Accounting Act of 1921 stands out as the first significant and determined move toward executive reintegration. How truly new it would be, how much of a system it would represent, what results it would produce--these are questions that could not be answered in statutory terms.

The following chapters attempt to answer these questions by tracing the development of the Bureau of the Budget from its inception to its present prominent role as the President's "right arm." In this respect, it is the writers opinion that the conduct of the Bureau in the "early years" was particularly important in laying the ground work for its ultimate rise to power.

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[32] 42 Stat. 20; 31 U.S.C. 1, Section 209.

[33] <u>Ibid</u>, Section 212.

CHAPTER II

THE EARLY YEARS

Setting the Stage

The creation of the Bureau of the Budget by the Budget and Accounting Act of 1921 was a major step in the direction of effective management in the executive branch of the Government. It placed upon the President responsibility for the preparation of a comprehensive annual budget and recognized the need for Executive discretion and leadership in preparing and submitting to the Congress a program of Federal expenditures. At the same time it provided the President with one of the primary instruments needed for effective over-all management of the executive establishment. The Director of the Budget Bureau is appointed by the President and reports directly to him. The Director is one of the few high-ranking policy officials in the executive branch who does not require confirmation by the Senate.[1] It is interesting to note that the Budget Director's salary indicates that he is below Cabinet rank.[2]

The Bureau of the Budget was set up as an arm of the President for centralized fiscal management of the vast administrative

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[1]U. S., Congress, Senate, Committee on Government Operations, Financial Management in the Federal Government, 87th Cong., 1st Sess., 1961, Doc. No. 11, p. 7.

[2]Arthur Smithies, The Budgetary Process in the United States (New York: McGraw-Hill, 1955), p. 73.

machine, thereby enabling him to submit regularly to the Congress a complete report on past activities and future programs for approval. Through its control over budgeting, the Bureau is in a key position to detect weaknesses in the organization and functioning of the various departments and agencies and to make recommendations to the President, the Congress, and the departments in the interest of economy and efficiency.

The first Budget Director, Charles G. Dawes, took office on June 23, 1921.[3] Prior to his Budget appointment, he had turned down the post of Secretary of the Treasury offered him by President-elect Warren G. Harding. Nor did Dawes look forward to more than one year of service to get the budget system started. However, he was convinced that governmental economy and efficiency had become a national issue pressing enough to require complete revision of the way in which administrative business was being carried on. He felt that he could best achieve this as an assistant secretary to the President, securing "by direction of the President" the intelligence application of executive pressure upon the business administration. In this regard, he thought of his role as the Budget Director as inaugurating a system of coordinating business control over the various departments and independent establishments of government which, for one hundred and thirty-two years, have been almost decentralized.[4]

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[3]Dawes had been a highly successful Chicago banker before the first World War. During and immediately after the war he became one of the principal figures in procurement and supply operations for the American Expeditionary Forces. He reached general rank. When he came to the Budget Bureau he drew his initial staff very largely from among his wartime associates.

[4]U. S., Executive Office of the President, Bureau of the Budget, Staff Orientation Manual, April 1958, p. 10.

Concurrently, with the establishment of the Bureau, the President announced his determination to assume his full responsibility as the head of the government's business organization. He directed the Bureau Director, in accordance with the provisions of the budget law, immediately to advise him of any improvements in existing methods which could be legally inaugurated by issuance of Executive Orders.[5]

Dawes assumed his duties as Budget Director with great enthusiasm for the new system, a keen sense of historic importance of getting the new procedures successfully applied and a strong feeling of personal identification. The new Director was determined to give effect immediately to the central mandate of the Act by establishing a firm presidential control over executive estimates of financial requirements to conduct the Government's operations. He went to great lengths to assert presidential discipline over the executive departments in the formulation and presentation of the executive budget.

In this connection, on June 23, 1921, just five days after his appointment, Dawes addressed the entire Cabinet in the presence of the President in order to explain his plans and statement of principles for the operation of the Budget Bureau. Dawes's intentions at this meeting are best expressed in his own words:

> Having thus the approval of the President beforehand, I knew I would have no trouble in the matter of a unanimous acquiescence in them by the Cabinet; but the important thing I wanted to do with the Cabinet was to create the

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[5]Charles G. Dawes, The First Year of the Budget of the United States (New York: Harper and Brothers, 1923), pp. 104-105.

impression that helpfully and sympathetically--with common sense and proper appreciation of the rights and sensibilities of others on my part in their application by me, these principles were to stand now and for all time as the rock of the Budget system of the United States.

The entire Cabinet, however, believed in my judgement, that whatever rights were given me by the President, I would not be timid about exercising, and that was my principal idea in meeting them.[6]

The principles of which Dawes speaks are:

1. The Budget Bureau must be impartial, impersonal and non-political.

2. The Director of the Budget in the matter of governmental business administration has no responsibilities under the law save for the administration of his own bureau. He is simply an advisor of the President and Congress in the matter of correcting business administration.

3. The Director of the Budget, in gathering information for the use of the President, acts for the President, and his calls upon the chiefs of bureaus and other administrative officers for purposes of consultation or information take precedence over the Cabinet head of a department, or any head of an independent organization.

4. The Budget representatives in each department, being appointed by the Cabinet head, will present to the Director of the Budget the views of the Cabinet head upon the wisdom of conclusions drawn by the Director of the Budget, for use of the Chief Executive and Congress; but, as in the case of bureau chiefs and other officers, the call of the Director of the Budget for their presence and advice takes precedence over the Cabinet head.[7]

On June 29, 1921, the day after his meeting with the Cabinet, Dawes addressed the entire government administration at a meeting held in the Auditorium of the Interior Department Building. At this gathering, he formally published his Circular No. 1. He made it clear to all present that the permanent success of the Budget system in the United States depends upon his set of

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[6] Ibid, p. 3.

[7] U. S., Bureau of the Budget, Circular No. 1, June 29, 1921.

principles--that they must be so firmly established both as concepts and rules of action that they will never be questioned, for the Budget machinery must last as long as the republic.[8]

The President was solidly behind the new Budget Director. In fact, President Harding went so far as to threaten dismissal of recalcitrant departmental officials who refused to comply with the requests of the Bureau.[9] The President also designated the Cabinet Room in the White House as the meeting place between the Budget Director and members of the Cabinet. This step helped raise the standing of the Budget Director and made it easier to reconcile conflicting notions of official propriety.[10] To further his quest for Bureau prestige Dawes let it be known that;

> . . . the Secretary of the Treasury walked upstairs to my office . . . one of his subordinate bureau chiefs . . . because he regarded it as necessary in connection with a call from me for information needed by the President of the United States. That will be a historic walk in the annals of the Budget Bureau.[11]

In carrying out the duties of his office, Dawes placed more emphasis on the task of working out the technical aspects of the new budget system, with related economies, than of attaining economy and efficiency by detailed studies. He felt that this aspect of his duties was more important at the time, and he did not want to over-extend his newly formed organization. Also, there

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[8]Dawes, op. cit., p. 8.

[9]Harold D. Smith, "The Bureau of the Budget," Public Administration Review, Winter, 1941, p. 109.

[10]Bureau of the Budget, Staff Orientation Manual, op. cit., p. 12.

[11]Dawes, op. cit., p. 14.

were several committees at the time investigating reorganization in government, and he did not want to cause embarrassment by overlapping or duplicating the work of these committees.[12] Therefore, much of his attention was focused on the creation of mechanisms, such as the Federal Coordinating Service, the Government Business Organization, and Federal business associations designed to introduce the best business practices into governmental routine where operating economies could be obtained. Dawes appears to have seen himself as the business manager of the executive branch, in an almost literal sense. There was no indication that he visualized a policy focus for the budget system.[13]

In fact, during his tenure of office, Dawes was very emphatic concerning matters of policy in relation to the business functioning of the Bureau.

> I want to say here again that the Budget Bureau keeps humble, and if it ever becomes obsessed with the idea that it has any work except to save money and improve efficiency in routine business it will cease to be useful in the hands of the President. Again I say, we have nothing to do with policy.[14]

The work of Dawes and his associates during the first year of the Bureau proved heartening to those seeking greater economy and efficiency. Congress was relieved of many duties as fewer changes in proposed budgets and appropriations became necessary. However, one must not overlook the fact that Director Dawes did

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[12]Fritz Morstein Marx, "The Bureau of the Budget: Its Evolution and Present Role," The American Political Science Review, August 1945, p. 671.

[13]Richard Elliott Neustadt, "Presidential Clearance of Legislation," (unpublished Ph.D. dissertation, Dept. of Political Economy and Government, Harvard, June, 1950), p. 18.

[14]Dawes, op. cit., p. 178.

not fulfill one of his principal functions as laid down by the budget law, that of making detailed studies in order to secure greater economy and efficiency. It is now generally recognized that a greater variety of services would have been possible if there had been less emphasis on the economy aspects of setting up the new Bureau. A little more money for the Bureau would have gone a long way. This economy trend for the Bureau established by Dawes seems to have spilled over into the ensuing years. From 1921 until 1938 the average personnel strength ranged from 38 to 42, a number patently insufficient to exercise all of the responsibilities spelled out in the Budget and Accounting Act.[15]

Decade of Conservatism

General Dawes served the Bureau for only one year, but left behind him a going concern of recognized standing and integrity. He not only proved the value of the Budget Bureau as a staff agency, but had also shown that the application of executive pressure for better administration was able to achieve results. However, as was indicated earlier, the broader aspects of executive management had not received the attention they required.

Dawes was succeeded subsequently by General Herbert W. Lord (July 1, 1922 - May 21, 1929), and Lieutenant Colonel J. Clawson Roop (August 15, 1929 - March 5, 1933).[16] Both of these men were associated with Dawes during World War I. They

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[15]Edward H. Hobbs, Behind The President, (Washington, D. C.: Public Affairs Press, 1954), p. 28.

[16]Ibid, p. 29.

frequently consulted with Dawes and appeared to be more anxious to preserve what they inherited than to reach aggressively beyond it. However, both did a yeoman's service in safeguarding the Bureau's authority in the face of counterpressures and in keeping their organization active and intact.[17]

The Bureau's working approach became fairly well defined during this period, and it came to operate increasingly on the basis of settled routines. The indefinite postponement of administrative reorganization and the Bureau's pride in its small size combined to deprive it of opportunities for self-development on any significant scale. During its course of normal business routine, the Bureau required a continually decreasing degree of effective executive pressure. As a result, the art of applying this pressure with Dawes's skill was lost. Independence began to spring up in the departments again. Although the Bureau managed to hold its ground, it could no longer afford a headlong collision with departmental leadership. At the end of its first decade, the Bureau was no longer able to show effective leadership.[18] The stage so painstakingly set by Dawes had now become obscure in the twilight of routine.

Transfer to the Executive Office of the President

When the Presidency was reactivated after the election of Franklin D. Roosevelt in 1932, the Bureau suddenly took on new

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[17]Bureau of the Budget, Staff Orientation Manual, op. cit., p. 16.

[18]Ibid.

life. With the New Deal and the marked growth of governmental activities, the President's need for greater staff assistance in directing and coordinating the executive branch became more imperative.

The President in 1933 was given the power to reorganize the Executive Branch of the government and to transfer or abolish the functions of any executive agency.[19] Using this authority, the President abolished the Coordinating Service and certain of its functions were assumed by the Bureau of the Budget.[20]

The President further strengthened his authority over budget execution by transferring the authority to make, waive, and modify appointments of appropriations from the heads of the departments and independent establishments to the Director of the Bureau of the Budget.[21] This authority gave the President greater controls over expenditures of appropriated funds and provided a means for effecting economies in the government.

However, with expansion of the federal government's activities and the corresponding increase in the complexity of government organization, the effectiveness of the efforts of the executive branch was diminished to the point that both Congress

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[19]Title IV of the act of June 30, 1932 (47 Stat. 413), generally known as the Economy Act, gave the President the power to reorganize, by transfer or consolidation, the functions of executive departments and agencies. The power conferred did not include authority to abolish any function. This act was amended by the act of March 3, 1933 (47 Stat. 1517), vesting in the President the power to abolish as well as to consolidate or transfer functions of any executive agencies in order to reduce Government expenditures.

[20]U. S., Executive Office of the President, Executive Order No. 6166, June 10, 1933.

[21]*Ibid*.

and the President directed studies to be made. The object of these studies was to develop a program for improving the organization structure and administrative management of the government.[22]

On February 24, 1936, as a result of a resolution introduced by Senator Harry F. Byrd of Virginia, a Senate Select Committee was appointed to investigate the executive agencies of the government. The Senate Select Committee obtained the aid of the Brookings Institute for the conduct of the investigation and preparation of related reports, in conjunction with the President's Committee on Administrative Management.[23]

The Committee on Administrative Management was created on March 22, 1936 by President Franklin D. Roosevelt. This committee became known as the "Brownlow Committee," because of its chairman Louis Brownlow. The Committee was to study the organization of the administrative departments and agencies of the government, with the primary purpose of considering the problems of administrative management.[24]

Both of these committees stressed the management responsibilities of the President and recommended that the Bureau of the Budget be greatly strengthened and transferred to the immediate staff of the President. The committees were also impressed

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[22]Horace W. Wilkie, "Legal Basis for Increased Activities of the Federal Budget Bureau," The George Washington Law Review, April 1943, p. 274.

[23]U. S., Congress, Senate, Committee on Government Operations, Financial Management in the Federal Government, 87th Cong., 1st Sess., 1961, Doc. No. 11, p. 18.

[24]Ibid, p. 13.

by the fact that the Bureau, in its endeavor to set an example of economy, had restricted its staff to the point that the Bureau was relatively ineffective, at least when compared with its potentialities.[25]

Although Reorganization Acts were proposed in both 1937 and 1938, it was not until the following year, that the Reorganization Act of 1939[26] was passed. This Act required the President, subject to the approval of Congress, to undertake the reorganization of the Executive Branch of the federal government. The President immediately submitted his first reorganization plan to Congress. This plan provided, among other things, for the transfer of the Bureau of the Budget to the Executive Office of the President. In transmitting this plan, the President re-emphasized the necessity for the Chief Executive to have direct control over the managerial functions by which an executive can control his organization, especially budgeting, efficiency, research, planning, and personnel. With Congressional approval, the Bureau of the Budget was made part of the Executive Office of the President effective July 1, 1939.[27] Thus, the President was given the machinery to enable him to carry out more expeditiously his constitutional responsibilities as chief administrator.

Shortly after the creation of the Executive Office of the President, its internal structure and the activities of its several parts were defined in Executive Order No. 8248 of

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[25]Wilkie, loc. cit.

[26]53 Stat. 561 (1939).

[27]Wilkie, op. cit., p. 275.

September 8, 1939. This order provided an enumeration of the Bureau's main functions which are contained in Appendix A. In a general way, these functions can be grouped under five headings: (1) preparation and execution of the budget; (2) improvement of government organization and management; (3) improvement of accounting and other phases of financial management; (4) legislative analysis and review; and (5) coordination and improvement of federal statistics.

The Bureau of the Budget as a management arm of the Chief Executive was greatly strengthened when it was transferred to the Executive Office of the President. In its new location, the Bureau was made more accessible to the President. Furthermore, the grouping of the several managerial agencies within the Executive Office resulted in a closer working relationship among the immediate staff of the President.

In the next section of this paper an attempt will be made to trace the development of the main functions of the Bureau of the Budget with particular emphasis on the statutory aspects involved.

CHAPTER III

DEVELOPMENT OF FUNCTIONS

Preparation and Execution of the Budget

In the discussion of this phase of the Bureau's functions, no attempt will be made to cover all of the facets involved. The details of the modifications and improvements made throughout the years are believed to be beyond the scope of this paper. Rather, an attempt will be made to trace the legal basis for the development of this function within the Bureau of the Budget. Also, the starting point for discussion will be the creation of the Budget Bureau, as Chapter I covered, for the most part, the situation as it existed prior to the passage of the Budget and Accounting Act of 1921.

The task of assisting the President in the formulation of his budget program is the most important single activity of the Bureau of the Budget. In order to fulfill this function the Budget and Accounting Act of 1921 empowers the Bureau of the Budget,

> . . . under such rules and regulations as the President may prescribe, shall prepare the Budget, and any proposed supplemental or deficiency appropriations, and to this end shall have authority to assemble, correlate, revise, reduce, or increase the requests for appropriations of the several departments or establishments.[1]

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[1]Section 207, 42 Stat. 20.

This authorization apparently has been interpreted literally, in order, perhaps, to avoid constitutional objections. The power to assemble, correlate, revise, reduce, or increase estimates applies only to "the several departments or establishments" and not to the Supreme Court of the United States or to the legislative branch. Estimates covering these components of the government are incorporated into the budget without modification by the Bureau.[2]

Control in the execution of the government's budgetary and financial programs is based on the provisions of section 3679 of the Revised Statutes as amended. This law is commonly referred to as the Anti-Deficiency Act. The original section 3679, Revised Statutes, was derived from legislation enacted in 1870, and was designed solely to prevent expenditures in excess of amounts requested.[3] In 1905 and 1906, section 3679 of the Revised Statutes was amended to provide specific prohibitions regarding the obligation of appropriations. The amendment also required that certain types of appropriations be so apportioned over a fiscal year as to prevent the expenditures in one part of the year which would necessitate a deficiency or an additional appropriation to complete the program of the fiscal year for which the original appropriations were made. The authority to make, waive, or modify apportionments was vested in the head of the department or agency concerned.

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[2]Edward H. Hobbs, Behind The President (Washington, D. C.: Public Affairs Press, 1954), p. 44.

[3]Section 7, 16 Stat. 251.

On June 10, 1933, as a result of Executive Order 6166, the authority to make, waive, and modify apportionments of appropriations was transferred from the heads of the departments and independent establishments to the Director of the Bureau of the Budget. This order was issued by President Roosevelt pursuant to the authority contained in the Economy Act of 1932,[4] as amended in 1933.[5] This Act vested in the President the power to abolish, consolidate or transfer functions of any executive agency in order to reduce government expenditures.

An amplified restatement of the Anti-Deficiency Act was provided by Congress in the Appropriations Act of 1951. Among other things, this restatement of the law integrated the provisions of existing related legislation and executive orders. It also expanded the scope of the apportionment, one of the most notable being that the apportioning officers were to establish reserves for contingencies in order to effect savings or to provide for changes in requirements. In 1956, the Anti-Deficiency Act was again amended to provide that each department or agency work toward the objective of financing each operating unit at the highest practical level, from not more than one administrative subdivision of each appropriation in order to simplify the control system.[6] The revised Anti-Deficiency Act serves as the primary foundation for the government's administrative control of funds systems. The

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[4] 47 Stat. 413.

[5] 47 Stat. 1517.

[6] Alfred H. Teichler et al., "Administrative Control of Funds - The Anti-Deficiency Story" (unpublished Group research project, Navy Graduate Financial Management Program, George Washington University, 1962), pp. 9-13.

Bureau of the Budget sits at the pinnacle of these systems. This position, that of enforcing reserves and impounding agency funds, is one of the most controversial of all the functions of the Bureau. More will be said regarding this in Chapter IV.

Prior to 1945, there existed a lack of control over government corporations. In 1927 a Supreme Court decision held that government corporations in certain respects were free from accountability to the Department of the Treasury and from audit jurisdiction of the General Accounting Office. In addition, the Court held that the corporations were generally free of congressional control over their expenditures for administrative and operating expenses.[7]

Growing concern by the public and the Congress over the number of government corporations and the need for closer scrutiny and independent audit of their operations so that Congress could effectively discharge its responsibility over these corporations led to a two year study of the problem by the Joint Committee on Reduction of Non-Essential Federal Expenditures. The committee issued a report on August 1, 1944, in which it was recommended that government corporations be brought under closer fiscal supervision.[8]

In relation to the recommendation by the Joint Committee on Reduction of Non-Essential Federal Expenditures, two pieces of legislation were passed by the Congress, one in 1945 and the other in 1946. It is the former piece of legislation which primarily

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[7]U. S., Congress, Senate, Committee on Government Operations, Financial Management in the Federal Government, 87th Cong., 1st Sess., 1961, Doc. No. 11, pp. 21-22.

[8]Ibid.

concerns the Bureau of the Budget. This law, known as the Government Corporation Control Act,[9] was approved on December 6, 1945. The major features in regard to the Budget Bureau provides that,

> Each wholly owned Government corporation shall cause to be prepared annually a business-type budget which shall be submitted to the Bureau of the Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented.[10]

Also,

> Whenever it is deemed by the Director of the Bureau of the Budget, with the approval of the President, to be practicable and in the public interest that any wholly owned Government corporation be treated with respect to its appropriations, expenditures, receipts, accounting, and other fiscal matters as if it were a Government agency other than a corporation, the Director shall include in connection with the budget program of such corporation in the Budget a recommendation to that effect.[11]

The first Hoover Commission report[12] on budgeting and accounting submitted to Congress in February 1949, contained 13 recommendations on budgeting, improvements in the operation of the Bureau of the Budget, and reorganization of accounting procedures and methods. To improve the government's budget process, the Commission recommended the use of performance budgets, a survey of the appropriation structure to correct diversity of appropriations, separation of current expenditures from capital outlays in agency budget estimates and clarification of the authority of the President to spend less than amounts appropriated if

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[9] 59 Stat. 597.

[10] Ibid, Section 102.

[11] Ibid, Section 107.

[12] U. S., Congress, Commission on Organization of the Executive Branch of the Government, Report, Budgeting and Accounting, 81st Cong., 1st Sess., 1949.

congressional purposes are carried out.

Based on the recommendations of the first Hoover Commission, Congress enacted the Budget and Accounting Procedures Act of 1950.[13] This Act is considered as the most progressive step forward in the improvement of the financial system of the federal government since the Budget and Accounting Act of 1921.[14] The Act explicitly recognized the President's authority to determine the content, order, and arrangement of the proposed appropriations and statements of expenditure in the budget. It pointed the presentation of financial needs in the budget toward the activities to be performed by the federal agencies, i.e., performance budgets. It also lent special support to the improvement of government accounting and auditing procedures in the interest of better financial management.

The second Hoover Commission report[15] on budgeting and accounting was submitted to Congress in June of 1955. It contained 25 recommendations for budgeting, accounting and auditing practices, financial and performance reports, financial organization, and related matters. The report also proposed the expansion of the Bureau of the Budget and the creation of an Office of Accounting in order to enable more effective discharge of the Bureau's managerial, budget, and accounting functions, on the

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[13] 64 Stat. 832.

[14] Financial Management in the Federal Government, op. cit., p. 63.

[15] U. S., Congress, Commission on Organization of the Executive Branch of the Government, Report, Budgeting and Accounting, 83rd Cong., 2nd Sess., 1955.

premise that the strengthening of the Bureau of the Budget has a direct bearing on leadership within the Executive branch.

There were several pieces of legislation enacted by the Congress implementing the second Hoover Commission's recommendations. The most important insofar as the Bureau of the Budget was concerned, is Public Law 84-863,[16] approved August 1, 1956. This law amended the Budget and Accounting Act of 1921 and the Budget and Accounting Procedures Act of 1950. Mainly, it provided for the use of costs in budgeting and accounting in the executive agencies, the improvement of agency allotment practices, and the development of consistency in financial and organization classifications.

In summary, the Bureau of the Budget derives the powers it exercises in carrying out the function of preparation and execution of the budget, for the most part, from statutory authority. The most important items of legislation which delegates this authority to the Bureau of the Budget are:

1. Budget and Accounting Act of 1921.
2. Government Corporation Control Act of 1945.
3. Budget and Accounting Procedures Act of 1950.
4. The Act of August 1, 1956.
5. Section 3679 of the Revised Statutes (Anti-Deficiency Act).

The majority of tasks related to the Bureau's function of preparation and execution of the federal budget are carried out

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[16] 70 Stat. 782.

in the Office of Budget Review in coordination with the five divisions of the Bureau. Generally, the Office of Budget Review develops budget procedures; prepares fiscal analyses and reviews; plans and schedules the estimates process; coordinates the review of annual and supplemental estimates; prepares the budget document and related items; drafts materials for the President's Budget Message; and maintains liaison with the Appropriations Committees, the Joint Economic Committee and the Joint Committee on Internal Revenue Taxation, and those executive agencies primarily concerned with economic and fiscal policy.

Improvement of Government Organization and Management

The organic Budget and Accounting Act of 1921 specifically charged the Bureau of the Budget with the duty of making studies leading toward greater economy and efficiency in the conduct of the government's affairs by improving upon organization, procedures, and administrative practices.[17] Although the Bureau was active from the start in the development of an improved system for preparing the budget, it was not until the Bureau was made part of the Executive Office of the President in 1939, that it proceeded full steam ahead with its responsibilities in the field of administrative management. Prior to 1939, the Bureau had been unable to give much attention to such problems. This condition

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[17] <u>Supra</u>, pp. 15-16.

was partly due to the fact that the Bureau of Efficiency[18] had been engaged in activities of a similar nature until it was abolished in 1933. But it was due principally to the fact that the Bureau of the Budget, in order to impress upon the departments the importance of economy, kept its own appropriations at an austere level.[19]

Although the functions of the Bureau of Efficiency were transferred to the Bureau of the Budget in 1933, management improvement activities remained dormant until the results of the Brownlow Report were made known in 1937.

> The administrative research function placed upon the Bureau are practically undeveloped; it is in this respect that the Bureau has missed its greatest opportunity. The Budget and Accounting Act of 1921 specifically authorized the Bureau to make detailed studies of the administrative departments and establishments for the purpose of advising the President intelligently as to changes that should be made in their organization and methods, in the grouping of services, and in the appropriations for various activities. The Bureau of Efficiency was abolished by an act of Congress, approved March 3, 1933, mainly on the grounds that it duplicated work that the law required the Bureau of the Budget to do. Its records and files were transferred to the Bureau of the Budget, but adequate provisions for carrying on its

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[18]The origin of the Bureau of Efficiency dates back to the Legislative, Executive and Judicial Appropriation Act of 1913, (37 Stat. 360), which ordered the Civil Service Commission to establish a system of employee efficiency ratings. The Commission established a Division of Efficiency to handle this and relating assignments. In 1917 as a result of the Urgent Deficiency Appropriation Act (39 Stat. 14, 15) the Division was made independent as the Bureau of Efficiency. In a report to Congress (S. Doc. 54, 73rd Cong., 1933), it was noted that the Bureau of Efficiency was created to provide a small force of specialists to serve the President and the heads of agencies by studying specific organization and procedural problems and by developing recommendations for improvements. The Bureau of Efficiency was abolished in 1933 (47 Stat. 1519) and its files and records were transferred to the Bureau of the Budget.

[19]<u>Supra</u>, p. 29.

worth are still to be made. Research in administrative organization has been negligible. Recommendations for reorganization have been conspicuously absent.[20]

It was also recognized that the importance of the management research function of the Bureau of the Budget cannot be overestimated, for it is only when considered with reference to their organization and procedural implications that the financial programs of the government agencies can be thoroughly understood. Furthermore, there is always the problem of eliminating duplication and overlapping of functions between agencies. Therefore, in the interests of the most economical and efficient management, it is essential that a continuous study be made of management methods both within and among the several agencies. This was, and still is, regarded as an integral part of the budget function in that it is inexorably associated with the problems of budget preparation, budget execution and the effective management of government affairs.[21]

A division of Administrative Management was finally set up in the Bureau in 1939, for the purpose of achieving greater "economy and efficiency" in the government as indicated by the Budget Act of 1921. One of the foremost responsibilities of the Bureau with respect to administrative management was the task of assisting the President in the preparation of the reorganization plans submitted under the Reorganization Act of 1939.[22]

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[20]U. S., President, Committee on Administrative Management, Report, 1937, pp. 16-17.

[21]Horace W. Wilkie, "Legal Basis For Increased Activities Of The Federal Budget Bureau," The George Washington Law Review, April 1943, p. 292.

[22]53 Stat. 1423.

Under Executive Order 8248 issued September 8, 1939, the Bureau was specifically charged with the responsibility to "conduct research in the development of improved plans of administrative management, and to advise the executive departments and agencies of the Government with respect to improved administrative organization and practices," and to "aid the President to bring about more efficient and economical conduct of Government service."

Title X of the Classification Act of 1949, as amended,[23] gave further authority to the Bureau of the Budget with respect to management improvement plans. Section 1001 of this Act states,

> In accordance with regulations issued and administered by the Director of the Bureau of the Budget, each department shall make systemic reviews of the operations of each of its activities, functions, or organization units, on a continuing basis.

As a result of recommendations submitted by the first Hoover Commission,[24] in regard to improvement of organization and management, the Budget and Accounting Procedures Act of 1950[25] gave additional statutory authority to the Director of the Bureau of the Budget. Under Section 103 of this Act, the President, through the Director of the Budget Bureau was authorized and directed to evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the government.

In addition to the statutory authority granted the Bureau of the Budget, in order to fulfill its function in regard to

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[23] 63 Stat. 954.

[24] Commission on Organization of the Executive Branch of the Government, Report, 1949, op. cit., pp. 26-28.

[25] 64 Stat. 832.

improvement of government organization and management, several executive orders were also issued based for the most part on Presidential authority. Executive Order 10072 of July 29, 1949, provides for continuing action to improve the management of the executive branch, and requires the Director to assist agencies in planning such programs and to review their efforts. Another example is Executive Order 10559 issued September 8, 1954, which delegates to the Director of the Bureau of the Budget, the President's authority to allocate to agencies funds appropriated to the President for management improvement.

In summary, the basic statutory authority which delegates to the Bureau the means to fulfill its function in the field of improvement of organization and management in the federal government are:

1. The Budget and Accounting Act of 1921.
2. Reorganization Act of 1939.
3. Title X of the Classification Act of 1949.
4. The Budget and Accounting Procedures Act of 1950.

The objectives of the Office of Management and Organization are generally to improve government organization; to strengthen and improve the internal management of individual federal agencies; and to develop and install improved standard operating procedures for the government as a whole. More specifically, the Office plans for the most effective distribution of functions among and within federal agencies; it prepares reorganization plans for the President; it promotes and participates in improved methods and practices where government-wide uniformity

is desirable; it assists individual departments and agencies in providing for continuous appraisal and improvement of their management; and it advises on the organization and management aspects of proposed legislation and executive orders.

Improvement of Accounting and Other Phases of Financial Management

Under section 304 of the organic Budget and Accounting Act of 1921, all the powers and duties which had been previously imposed by law and exercised by the Treasury Department relating to auditing and accounting were transferred to the General Accounting Office under the Comptroller General of the United States. Also, section 309 of the Act gave the Comptroller General the power to prescribe forms, systems, and procedures for the administrative appropriations and fund accounting in the various departments and establishments.[26]

Thus, initially, the Bureau of the Budget was without statutory powers in the area of accounting responsibilities. This situation prevailed for over twenty years. It was not until President Roosevelt issued on August 13, 1940, Executive Order 8512, under the authority of the Budget and Accounting Act of 1921, that the Bureau assumed part of the responsibility for the development of accounting systems and the necessary reports needed for effective control over the fiscal and budgetary administration of the government.

However, prior to 1940, President Hoover attempted to place accounting and reporting functions in the Bureau of the

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[26]Title III, 42 Stat. 20.

Budget. On December 9, 1932, based on the authority of the Economy Act,[27] he issued Executive Order 5959, which recommended that the powers and duties exercised by the General Accounting Office which relate to the designing, prescribing, and installation of accounting forms, systems, and procedures used in the executive departments and independent establishments be transferred to the Bureau of the Budget.

President Hoover's reason for this recommendation was stated as follows:

> It is not, however, a proper function of an establishment created primarily for the purpose of auditing Government accounts to make necessary studies and to develop and prescribe accounting systems involving the entire field of Government accounting. Neither is it a proper function of such an establishment to prescribe the procedure for nor to determine the effectiveness of the administrative examination of accounts. Accounting is an essential element of effective administration, and it should be developed with the primary objective of serving this purpose.[28]

The recommendation as submitted by President Hoover was disapproved by resolution of the Congress on January 19, 1933.[29]

As mentioned previously, Executive Order 8512, issued by President Roosevelt in 1940, was the first real step in developing accounting procedures necessary for effective administration of financial matters in the federal government. This order provides that the Secretary of the Treasury should prepare and transmit to the Bureau of the Budget such financial reports as may be

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[27] Supra, p. 27.

[28] U. S., Congress, House of Representatives, Document 483, 72nd Cong., 2nd Sess., p. 70.

[29] Financial Management in the Federal Government, op. cit., p. 12.

necessary to make known the financial condition of the government, and such other reports as may be required by the Director of the Bureau of the Budget. In addition, the Secretary of the Treasury was authorized to establish and maintain such accounting records as necessary to compile such reports. In this regard, Executive Order 9084, issued on March 3, 1942, amended Executive Order 8512 in that prior to establishing uniform terminology, classifications, principles, and standards for accounting, they be referred to the Comptroller General to avoid conflicts of purpose.[30]

This step brought about one of the objectives political scientists and experts in governmental affairs had been advocating for many years; namely, that management should be given the necessary tools with which to operate, and by giving the President such authority, he could exercise it through the Bureau of the Budget, and thereby manage the affairs of government more effectively.[31]

The first statutory authority fixing accounting responsibilities in the Bureau of the Budget came as a result of the Budget and Accounting Procedures Act of 1950. As has already been mentioned, the provisions of this Act for the most part resulted from the recommendations of the first Hoover Commission. The Commission emphasized the importance of accounting to maintenance of financial integrity and pointed out that accounting not only provides the basis for summary financial reports by which

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[30] Ibid, pp. 20-21.

[31] Ibid.

the executive branch accounts to Congress, but also in the finality provided for fixing responsibility in the disposition of government funds.[32]

The provisions of the Act of 1950 provided for a joint accounting program to be conducted by the Comptroller General of the United States, the Secretary of the Treasury, and the Director of the Bureau of the Budget with a view toward conducting a continuous program for the improvement of accounting and financial reporting in the government.[33] In addition, the Act gave statutory effect to Executive Orders 8512 and 9084 issued by President Roosevelt in 1940.[34]

The next step that strengthened the accounting and reporting responsibilities of the Bureau of the Budget came as a result of recommendations by the second Hoover Commission. The Commission noted in its report that the stimulus of central accounting direction in the executive branch itself is needed if management is to furnish the financial information which it requires. The report criticized the Bureau of the Budget for not giving sufficient recognition to its responsibilities for furthering adequate accounting and financial methods in the executive agencies. Therefore, in order to meet the accounting responsibilities of the Bureau of the Budget, the Commission recommended that a staff office headed by an Assistant Director for Accounting be

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[32]Commission on Organization of the Executive Branch of the Government, Report, 1949, p. 36.

[33]Section 111, 64 Staf. 832.

[34]Ibid, Section 114.

established under the Director of the Bureau of the Budget.[35] Upon the President's approval of this recommendation, the Bureau in 1956 added to its four offices an Office of Accounting.

The Office of Accounting provides the initiative for improvement of financial management in the executive branch of the government. It serves as the Director's representative to the Joint Program for Improvement of Accounting in the federal government, carried out cooperatively by the General Accounting Office, the Department of the Treasury, and the Bureau of the Budget. It conducts programs and activities to solve accounting problems and to develop effective financial management practices in the agencies. It also provides information to Congressional committees concerned with the development of accounting, and gives guidance and assistance to the divisions in its field.

Legislative Analysis and Review

Next to budget preparation, the oldest function of the Bureau of the Budget is the processing of legislation. This activity of the Bureau had its beginning about five months after the passage of the Budget and Accounting Act of 1921. On November 17, 1921, while the first executive budget was still being prepared, General Dawes received a letter from Chairman Madden, House Appropriations Committee, calling his attention to two Senate Joint Resolutions. These Resolutions would have

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[35] U. S., Congress, Commission on Organization of the Executive Branch of the Government, Report, Budgeting and Accounting, 84th Cong., 2nd Sess., 1955, pp. 30-31.

authorized the War Department to divert funds to purposes other than those for which originally appropriated. Mr. Madden was of the opinion that:

> It seems to me that matters of this character should come through the Bureau of the Budget. While they do not call for the appropriation of new money, they do call for the diversion of funds appropriated for a specific purpose to another purpose, which in effect is another way of making the appropriation. If this practice is allowed to grow we will be flooded with requests of this character and the Bureau of the Budget will not be cognizant of what is going on until the matter comes up in Congress.[36]

In response to Mr. Madden's letter, General Dawes issued Bureau of the Budget Circular 49 on December 19, 1921, over his signature "by direction of the President." The circular cited as basic authority Section 206 of the Budget and Accounting Act of 1921, which prohibited the submission of appropriation requests, "to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress." In addition, the circular required that all agency proposals for legislation or expression of views on pending legislation, "the effect of which would be to create a charge upon the public treasury or commit the government to obligations which would later require appropriations," be first submitted to the Director of the Bureau of the Budget.

Shortly after its initial adoption, the legislative clearance procedure was modified so that a department or agency head could take major legislative proposals to the President

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[36] U. S., Bureau of the Budget, Legislation File No. 1 as cited in Donald A. Hansen, "Legislative Clearance By The Bureau of the Budget," (unpublished Work, April 1943).

personally without reference to the Budget Bureau at all except through an after-the-fact notification required for Bureau information. It seems that the full impact of the requirements of the circular were not fully realized at the time of issuance. Broadly, or even narrowly interpreted it meant that all proposals must be cleared by the Budget Bureau, which it appeared, was not what the President wanted. The Circular was never officially modified; however, the Budget Director was taken out of the stream of most major proposals. Actually, under the Harding administration, the Bureau apparently was content to undertake whatever clearances the several departments and agencies chose to submit, on the basis of their individual interpretation of the circular. These varied widely.[37]

For the next ten years this situation, more or less, remained substantially the same, depending upon the desires of the President. During the Coolidge administration, the Budget Bureau did not have to concern itself with the substantive merits of a proposal, but merely with its financial results as they affected the President's planned budget program.[38] President Hoover wanted the Budget Bureau to take no action on departmental requests for clearance unless and until it received a clear intimation of Congressional interest.[39]

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[37]Richard Elliott Neustadt, "Presidential Clearance of Legislation," (unpublished Ph.D. dissertation, Dept. of Political Economy and Government, Harvard University, June 1950), pp. 22-28.

[38]Ibid, p. 37.

[39]Ibid, p. 40.

Legislation clearance and coordination as it is now known had its beginning during President Roosevelt's tenure of office when he established the National Emergency Council.[40] By Bureau of the Budget Circular No. 336, issued on December 21, 1935, agencies were instructed to clear all bills "solely concerning fiscal matters" through the Bureau of the Budget. Other proposals "solely concerning policy matters" were to be submitted to the Executive Director of the Council for Clearance with the President. In the fall of 1937, all clearance authority on legislation which had been vested in the National Security Council was rescinded by Bureau Circular No. 344 issued on November 15, 1937. Henceforth the Bureau was not only to clear all proposals, reports, and testimony for Congressional hearings but was also to be held completely responsible for ascertaining the position of executive agencies with reference to the President's program.[41]

At the same time that the routine clearance process for proposed legislation was taking shape, another important duty of the Bureau, action on enrolled bills was slowly evolving. Before the Bureau of the Budget was established, enrollments were always forwarded to the White House Executive Clerk who would have the bill referred to appropriate officials by the President's personal staff. Pertinent materials so assembled were made available to the President for his consideration.[42]

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[40]The Council was organized in 1933. It was intended to be a device for top-level policy and program coordination. Its Staff reported directly to the President. In 1934 and 1935 the Council held bimonthly meetings with the President. Thereafter it gradually went into disuse. In 1939, its Staff and functions were transferred elsewhere.

[41]Hobbs, op. cit., p. 58.

[42]Ibid.

The development of the enrolled bill clearance process is best described by Mr. Richard Neustadt, a leading authority on legislative clearances.

> Shortly after its establishment in 1921, the Budget Bureau for obvious reasons, began to get White House requests for recommendations on all enrolled appropriation bills. In 1934, it received all private relief bills involving an expenditure of funds. During the following three years an increasing share of substantive bills was sent to the Bureau, which took over the job of circularizing the departments returning their recommendations to the White House together with its own. By 1938 almost all bills were being turned over to the Bureau for this handling. The few exceptions do not follow any clear line of demarcation. For all practical purposes, White House delegation became complete in the second session of the 76th Congress.[43]

The increase in activity by the Bureau in regard to enrolled legislation had scarcely gotten under way when the United States entered a period of national emergency followed by the war years. Consequently, other devices were created, under the stresses of war, which resulted in this function being split to a certain extent among the White House staff, the Bureau of the Budget, and in the later war years, the Office of War Mobilization and Reconversions. After the war and President Roosevelt's death, the entire function was put back into the Bureau of the Budget by President Truman.[44]

In the fall of 1947, the Budget Bureau began to play a new role in its legislative activities. The newly appointed Budget Director, Mr. James Webb, was able to sell himself and his staff services to President Truman. Thus, he was able to draw

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[43]Neustadt's notes as cited in Hobbs, op. cit., p. 58.

[44]U. S., Congress, House, Committee on Lobbying Activities, Hearings, The Role of Lobbying in Representative Self-Government, Part I, 81st. Cong., 2nd Sess., 1950, p. 135.

the Budget Bureau closer to White House affairs. The impact of this relationship between the President and the Director had a revolutionary effect upon the role of the legislative operations of the Bureau. As Mr. Neustadt describes this transition,

> . . . Webb turned to his machinery for legislative clearance and coordination as a means of focusing agency and Bureau efforts to help meet the President's needs. Legislative clearance had had a negative focus. It was to me made positive. It had interpreted policy and programs where it found them. It was to help create them. The operation had not been sensitized to Congressional developments and tactical requirements. It was to become so. The Bureau as a staff group had not previously assisted in the preparation of Presidential messages--except the Budget Messages--or been alerted to the interplay of forces underlying the formal proposals which the President set forth. The staff could now participate as a party at interest or at least stand by as a friend in court, acquiring background on the program decisions which it would be called on later to interpret. Finally, the processes of legislative clearance were to be adapted so that their production--whether for the President or the agencies--would represent not merely the work of the Bureau, but the combined judgement of all parts of the President's staff.[45]

To round out the Bureau's role in regard to legislative clearance activities, President Truman on February 9, 1948, issued Executive Order 10006. This order provides for Bureau clearance for the President of Executive Orders and proclamations.

The only real piece of legislative authority for the Bureau's functions in regard to legislative clearance, is the Budget and Accounting Act of 1921. The remainder of the Bureau's authority is derived from the President. In addition to those items which originate in the executive branch, the Bureau handles a heavy volumn of requests from the Congress for expression of

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[45]Neustadt's notes as cited in Hobbs, op. cit., p. 60.

view with respect to legislation. Also received, are formal requests from committee chairmen for an expression of Presidential opinion on legislation.

The work of the Bureau of the Budget in carrying out the functions of legislative clearance is performed by the Office of Legislative Reference. This office coordinates the review by the Bureau of department and agency proposals for legislation and agency views on pending legislation and enrolled bills, proposed executive orders, proclamations, and other formal papers and documents. The Office participates in the development of the President's legislative program and informs Congressional committees and federal agencies about the relationship of proposed or pending legislation to the President's program. It makes recommendations to the President on legislative proposals and enrolled bills; maintains liaison with the Congress and the White House on legislation pending before substantive committees; and coordinates the preparation of testimony by Bureau officials on legislative matters.

Coordination and Improvement of Federal Statistics

Attempts to coordinate statistics in the federal government go back to at least 1908. In that year President Theodore Roosevelt set up an Interdepartment Statistical Committee, which made a brief investigation, filed a report, and disappeared. Another attempt was made in 1918, when a Central Bureau of Planning and Statistics, under the War Industries Board, was created. This Bureau had a brief and active existence, assembling

statistics, advising other statistical agencies, and serving as a clearing house of statistical information. Shortly after World War I, in 1919, it was absorbed by the Bureau of Efficiency.[46]

In 1922, the Bureau of Efficiency proposed, as a permanent office, a Bureau of Federal Statistics within which the collection, tabulation and dissemination of all non-administrative statistics would have been centralized, so far as practicable. The proposal was offered as a means of achieving coordinated and unified statistics. It aroused so much opposition that the Bureau was never established. Following this proposal, interest lagged and very little was done during the remainder of the 1920's.[47]

Events such as these resulted in a general concensus that centralization of statistical services were impractical but a coordinating agency was necessary. The steps taken since have been directed toward the twin premises of decentralized operation and central coordination of statistical services.[48]

It was in the year 1931, that the Bureau of the Budget first became involved in the attempts to coordinate statistics on a national level. In April of that year, the Director of the Bureau of the Budget acting "By direction of the President," issued Budget Circular No. 293, establishing the Federal Statistical Board, as a part of the Federal Coordinating Service.

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[46] U. S., Congress, Commission on Organization of the Executive Branch of the Government (1947-1949), "The Statistical Agencies of the Federal Government," Report by the National Bureau of Economic Research, Vol. II, pp. 69-78.

[47] Ibid.

[48] Clem C. Linnenberg, Jr. "The Development of Federal Statistical Coordination, 1908-1949," American Statistician (April-May 1949), p. 7.

The Board was to deal with a very broad area--statistics throughout the federal government. However, it was given neither staff nor powers and did not achieve a great deal.[49] In fact, by the time it had collected the information that it needed for coordinating, it was replaced by the Central Statistical Board in 1933.[50]

The Central Statistical Board was established on July 27, 1933 by Executive Order No. 6225, issued under a temporary law--the National Industrial Recovery Act. This new Board was a marked advance over the previous efforts to develop statistical collecting methods and in 1935 it was recognized by Congress and given specific statutory powers.[51] This was accomplished by Public Law 219 of July 1935.

Empowered with authority to require information-gathering agencies to listen to its advice, the Central Statistical Board was to operate for five years on a trial run basis. At the request of the President a comprehensive survey was undertaken of financial and other statistical reports, questionnaires, forms and other returns made by the public to the federal government.[52] On December 31, 1938, its findings[53] were reported to the President. The Board found: (1) that during fiscal year 1938, eighty-eight agencies collected a total of ninety-seven and one-half

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[49] Ibid, p. 8.

[50] National Bureau of Economic Research Report, loc. cit.

[51] Linnenberg, op. cit., p. 8.

[52] Hobbs, op. cit., p. 42.

[53] U. S., Congress, House Document 277, Report of the Central Statistical Board on the "Returns Made by the Public to the Federal Government," 76th Cong., 1939, pp. 4-6.

million administrative and thirty-eight million non-administrative forms, (2) the Board recommended the continuation of decentralized fact-gathering units, and (3) stress was placed on the need for a central body which would standardize and correlate forms sent out to the public.

Since the task of coordinating statistical services was considered such an integral part of the general program of achieving economy and efficiency in the federal government[54] that, in 1939, under the President's Reorganization Plan No. 1, the Central Statistical Board was transferred to the Bureau of the Budget. Initially, the Board operated as a separate and quasi-independent unit within the Bureau. When its five-year term lapsed in 1940, it became an integral part of the Bureau of the Budget.[55]

Legislation up to this point gave the coordinating agency only authority to examine reports and records of the statistical agencies, but none to enforce its recommendations. In order to alleviate this situation, the Federal Reports Act of 1942,[56] put teeth into the work of the statistical coordinating division in the Bureau of the Budget. This Act gives the Budget Bureau five principal powers: to forbid most of the federal agencies to collect information on incidental items; to appoint a single collection agency wherever it finds more than one agency of the federal government collecting substantially the same statistical

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[54] Wilkie, op. cit., p. 297.

[55] Hobbs, loc. cit.

[56] U. S., Congress, Federal Reports Act, Public Law 831, 77th Cong., 2nd Sess., 1942.

information; to decide whether data are necessary and forbid agencies to collect information which is not; to make any agency turn the data it has already collected over to other federal agencies, provided the original responding business firms give permission; and to issue regualtions which will carry out the provisions of the Act. The Federal Reports Act exempts from the jurisdiction of the Budget Bureau most agencies in the Department of the Treasury.[57]

On February 8, 1949, Executive Order 10033 was issued. It required the approval by the Director of the Budget Bureau of responses by federal agencies to official statistical inquiries from international organizations. The legal basis for the issuance of this order is found in Section 8 of the Bretton Woods Agreement Act[58] and the presidential powers as enumerated in the Constitution.[59]

In 1950, as a result of several recommendations made by the First Hoover Commission,[60] further legislation was passed by the Congress strengthening the statutory basis of the Bureau's work in federal statistics. Section 103 of this piece of legislation provides that:

> The President, through the Director of the Bureau of the Budget, is authorized and directed to develop programs

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[57]The exemptions are the Bureau of Internal Revenue, Comptroller of the Currency, Bureau of the Public Dept., Bureau of Accounts, Division of Foreign Fund Control.

[58]59 Stat. 515.

[59]U. S., Congress, House, Committee on Government Operations, Executive Orders and Proclamations: A Study of a Use of Presidential Powers, 85th Cong., 1st Sess., 1957.

[60]Commission on Organization of the Executive Branch of the Government, Report, 1949, p. 31.

> and to issue regulations and orders for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the various agencies in the executive branch of the Government. Such regulations and orders shall be adhered to by such agencies.[61]

Executive Order 10253 of June 11, 1951, delegates to the Director the authority given to the President in Section 103 of the Budget and Accounting Procedures Act of 1950 to develop programs and to issue orders and regulations concerning gathering, analyzing, and disseminating statistical information.

In summary, the Bureau of the Budget derives its legal powers for the coordination and improvement of federal statistics mainly from the Budget and Accounting Act of 1921, Executive Order 8248 of September 8, 1939, the Federal Reports Act of 1942, and the Budget and Accounting Procedures Act of 1950. The function is rounded out by several Executive Orders issued principally as a result of statutory powers granted the President by the Congress.

The Office of Statistical Standards exercises the Bureau's function with respect to the government's statistical activities. In carrying out this function, it eliminates duplication in the collection of information and minimizes reporting burdens on the public by review and clearance of statistical forms and questionnaires proposed by federal agencies; it develops and applies improved statistical techniques and standard definitions and classifications; it maintains surveillance over the publication of statistical data from the standpoint of national security; and it serves as the focal point for United States participation in the statistical activities of international activities.

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[61] 64 Stat. 832.

Other Functions

In addition to the so-called main functions mentioned thus far in this chapter, the Bureau performs many additional tasks. Many of these activities were specifically assigned to the Bureau by statutory authority, while many others were assigned by executive order backed up for the most part by legislative authority.

A few of the principal laws relating to the Bureau, other than those already discussed are: The Travel Expense Act of 1949,[62] which authorized the Director of the Bureau to issue regulations with respect to travel allowances; the Act of July 15, 1954,[63] which granted the Director the authority to approve agency regulations on the collection of amounts erroneously paid to Government employees; in the Act of September 1, 1954,[64] which specifically charged the Budget Director with the duty to promulgate rules and regulations about the administration of uniform allowances; and in the Congressional Resolution of May 11, 1922, under which the use of appropriations for the printing and binding of periodicals is subject to Bureau approval. Nearly all of these additional legislative authorizations rounding out the Budget and Accounting Act were conferred upon the Bureau of the Budget after its transfer to the Executive Office of the President. A complete annotated listing of the principal laws relating to the Bureau of the Budget is contained in Appendix B.

The framework of legislative authorization for the Bureau is filled in by executive orders. A few illustrations of

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[62] 63 Stat. 166. [63] 68 Stat. 482. [64] 68 Stat. 1114.

elaboration by executive order of the Bureau's coordinating and reviewing activities are Executive Order 9094 of March 10, 1942, which abolished the Board of Surveys and Maps and directed the Bureau to coordinate and plan federal mapping and chart-making functions, and Executive Order 9384 of October 4, 1943, which made it a function of the Bureau to review federal public works and improvement projects and preparation of long-range plans with respect to such projects.

Other illustrations are Executive Order 10530 of May 10, 1954, which delegates to the Director of the Budget Bureau the exercise of statutory authorities of the President involving (a) transfers of balances of appropriations, (b) interagency land transfers, land acquisition, and (c) regulatory functions with respect to travel, transportation of household goods, and similar matters; Executive Order 10579 of November 30, 1954, which requires the Director to make a final decision on appeal by an agency from any determination by the Administration of General Services with respect to the establishment of an interagency motor vehicle pool or system; Executive Order 10729 of September 16, 1957, which makes it a duty of the Bureau to collaborate with the Special Assistant to the President on Personnel Management in the improvement of personal management throughout the federal government; and Executive Order 10766 of May 1, 1958, which delegates to the Director the President's authority to approve regulations on the rental of substandard housing for members of the uniformed services. A complete annotated list of principle executive orders pertaining to the Bureau of the Budget is contained in Appendix C.

In addition to the functions delegated by statutory authority and executive orders, other tasks have been assigned to the Bureau of the Budget by presidential request or as a result of the practical working experience of the Bureau.[65] For instance, the Bureau has the job of scheduling government office hours and by request of President Truman, the Bureau established a federal history program.

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[65]U. S., Executive Office of the President, Bureau of the Budget, Staff Orientation Manual, April 1958, p. 24.

CHAPTER IV

BUREAU RELATIONSHIPS

The President

Since the principal job of the President is to make decisions, he must carefully choose among the many alternative proposals which come to his office. Basically, he has a set of objectives, expressed in laws or in the broad goals of his administration. Against this background, he must select the means through which these objectives can best be attained. To assist the President in making these decisions is the primary task of the Bureau of the Budget. The Bureau serves him by testing each new proposal, questioning its assumptions, judging its probable effectiveness, matching it on its merits against alternatives, appraising its timing, measuring how thoroughly it has been thought through, considering it in the context of its place in a free enterprise economy, and balancing its initial and ultimate cost against the expected results.[1]

Naturally, the President has other sources of help to assist him in the decision making process besides the Bureau of the Budget. However, the other staff agencies in the Office of the President such as the Council of Economic Advisors and the

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[1]Maurice H. Stans, "Responsibilities of the Bureau of the Budget," Federal Accountant (Sept. 1959), pp. 15-16.

National Security Council are, for the most part, too specialized to provide help on an across-the-board basis. Also, the individuals on the White House Staff itself, however gifted personally, stand alone without support of special staffs of their own and are primarily concerned with domestic political policies.[2] In regard to the cabinet officers, no matter how loyal they are to the President, they tend naturally to plead the special views worked up by their departmental staffs. Thus, the Bureau of the Budget, being widely informed with its over-all view of the government, stands ready and able to assist the President on an across-the-board basis. In fact, this is one of the main reasons why the Bureau was initially created in 1921, to provide the President with a centralized office to investigate, collect information, and assist him in the performance of his executive duties.[3] Stated another way, the Bureau is the means by which the President is able to strengthen his position as the Chief Executive.

As has been mentioned on many occasions throughout this paper, the fundamental authorizations for delegation of authority to the Director of the Budget are contained in Title II of the Budget and Accounting Act of 1921. Also, the Bureau of the Budget itself was created by Section 207 of the Act, which in addition authorized the President to appoint a director and an assistant director without the usual advise and consent of the Senate.

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[2]Donald G. Gumz, "The Bureau of the Budget and Defense Fiscal Policy," United States Naval Institute Proceedings (April, 1959), p. 87.

[3]Supra, pp. 3-4.

However, all the authorities contained in Title II are conferred upon the President, who was to be responsible for the formulation, presentation, and execution of the budget of the United States. The Director acts only "under such rules and regulations as the President may prescribe" or "when directed by the President." Therefore, it is perfectly reasonable to assume that the Bureau's relations with the President depend, for the most part, on the personal relationship between the Director of the Budget Bureau and the President. The Director is often referred to as the "President's man."

Each President must decide how he wants to use the Bureau. He can employ the Bureau mainly to keep a lid on expenditures. The Bureau, in such cases, is told to "hold the line"--but may be given little guidance concerning the President's priorities and program goals. In coordinating and auditing executive branch performance, less reliance is placed on the Bureau and more on interdepartmental coordinating mechanisms or White House aides. Thus, in such a situation, the Bureau becomes a kind of "Certified Presidential Accounting Office."[4]

On the other hand, a President can employ the Bureau as his "lengthened shadow"[5] across the entire front of fiscal policy and program management. The Budget Director in this type of role belongs to the innermost policy councils of the President. The President in these instances regards the Bureau as his strong right

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[4]U. S., Congress, Senate, Committee on Government Operations, Study, The Bureau of the Budget and the Budgetary Process, 87th Cong., 1st Sess., 1961, p. 2.

[5]Ibid.

arm in executive management. To attain this position, the Budget Director must first gain the complete confidence of the President.

Employed with sophistication, the Bureau of the Budget through the budgetary process can be the President's most discriminating and effective tool in controlling the agencies in the executive branch. In this respect, the Director of the Bureau of the Budget historically has never been able to stabilize for any length of time, the power equation between himself and others in relation to the President.[6] Dawes ranked on a plane with, or perhaps outranked Cabinet officials, for he was allowed to issue budget orders to any official regardless of rank.[7] Lord and Roop preferred not to buck heads with Cabinet officials.[8] Other Directors throughout the years gained policy victories over Cabinet heads, while others did not fare as well. However, the Director's influence over the President is always something to be feared by department heads, for he serves as the keeper of the presidential conscience, and his instinctive habit of saying "no" may often counter the presidential bias toward saying "yes."[9]

A director who has the confidence of the President is strategically located for exercising influences which go beyond strictly his money and staff advisory roles. For with the aid of his Bureau, the Director applies the broad policies approved by the President. In the application of these policies, the Director

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[6]Edward H. Hobbs, Behind The President (Washington, D. C.: Public Affairs Press, 1954), p. 31.

[7]Supra, p. 22.

[8]Supra, p. 26.

[9]Hobbs, loc. cit.

makes decisions with respect to the substance of the programs involved. He also plays an important role in evaluating, and initiating broad alternative policies in presenting them to the President.[10] Thus, the Director is, in effect, performing a decision-making function. In this respect, the decisions made which cannot be personally viewed by the President are transmitted directly to line agencies. This places the Bureau in a position which is more than a "staff agency" as defined by Koontz and O'Donnell.[11]

The decision-making role of the Bureau with respect to the President has come under some sharp criticism throughout its existence. The question that is often raised is whether the advisor is not in fact the President's "alter ego," one who makes decisions for him.[12] In this regard, the Director, on occasion, has been referred to as the most powerful man in Washington--except, of course, for the President.[13]

The Congress

The Budget and Accounting Act made the Bureau of the Budget definitely a part of the executive branch, but it was also envisioned as a fiscal aid to the Congress. The law clearly prescribes that "the Bureau shall, at the request of any Committee

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[10]Norman M. Pearson, "The Budget Bureau: From Routine Business to General Staff," Public Administrative Review (Spring, 1943), p. 130.

[11]Harold Koontz and Cyril O'Donnell, Principles of Management (New York: McGraw Hill, 1959), p. 135.

[12]Edward L. Katzenbach, "Bubud's Defense Policy," The Reporter (June, 1960), p. 26.

[13]Ibid, p. 25.

of either House of Congress having jurisdiction over revenue or appropriations, furnish the Committee such aid and information as it may request."[14] It is apparent from the organization of the Bureau of the Budget as well as from this language that it was not meant to be an advisory agency to the Congress in the same manner in which it advises the President. Also Congress does not have as direct control over the Budget Bureau as it does over the General Accounting Office. Furthermore, the initiative must come from Congress in requesting aid and information. Congress, moreover, is not restricted to the information received from the Bureau of the Budget, as it may obtain as much as it desires from the departments and agencies.

It is interesting to note that both the revenue and appropriation committees are included. In this respect, the Bureau has rarely been called upon for assistance by the non-finance centered committees, although certain administrative studies have been undertaken at the behest of Congressional Committees, such as the one on administrative promotions for federal employees and one on the expense of personnel work.[15] The Bureau has encouraged such studies, but few have resulted from Congressional inspiration.

General Dawes, while serving as the first Budget Director, made it clear that the Budget Bureau was advisory to Congress only on matters of routine business, and that the Bureau was to be "impartial, impersonal and non-political." Although he urged

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[14] Supra, p. 16.

[15] Hobbs, op. cit., p. 66.

the fullest cooperation, it seems generally agreed that until the reorganization of the Bureau in 1939, very little aid or information was furnished to the Congress. However, when the Bureau began to strengthen its staff after being transferred to the executive offices, Congress has sought and received advisory reports.[16]

The relationship between Congress and the Bureau of the Budget has not always been as smooth as one would like to believe or as implied in the Budget and Accounting Act. Many controversial areas have developed throughout the years. However, before discussing some of the aspects involved, it is important to understand the political forces which surround the Bureau of the Budget under the direction of the President, and the Congress. An appropriate summary in this regard is given by Mr. Frederick J. Lawton, a former Budget Director, who served during the last two years of the Truman Administration:

> The natural pulls and strains that run through a society of autonomous interest groupings will normally keep Congress and the President on different tracks. The basic reason, as I have tried to imply, does not lie simply in the division of legislative and executive power. It lies in differences of political perspectiveness which in turn are influenced by interest relationships. The political perspective of Congress is affected closely by the perspectiveness of its individual members, who have their political roots in their districts. The President's perspective is necessarily national, not local.[17]

One of the most controversial of all the functions of the Bureau is that of enforcing reserves and impounding funds.

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[16]Pearson, op. cit., pp. 129-130.

[17]Frederick J. Lawton, "Legislative-Executive Relationships in Budgeting as Viewed by the Executive," Public Administrative Review (Spring, 1943), p. 170.

The legal basis for the impounding of funds when the objective is to avoid a deficiency in an appropriation is clearly found in the Anti-Deficiency Law, but when the process goes a step further and becomes immersed in deciding policy questions as to the actual requirements of an operating agency when there is little danger of overobligation, that is a much more dubious proposition.[18] When a reserve is established with the purpose of curtailing a particular program, Congressmen have labeled such action an illegal transgression of congressional prerogatives. It is contended that when the Bureau of the Budget decides on its own that appropriations should not be spent for the purpose prescribed by Congress, it is in effect usurping the power of Congress to control the purse.

In defense of the power of the Bureau of the Budget to take such action, it is contended that appropriations must be considered not as mandates to spend, but as outside limits within which the executive branch must operate. The courts have repeatedly held that the provision in the Constitution which provides that "no money shall be drawn from the Treasury but in consequence of appropriations made by law" is a mere limitation on the spending power of the executive branch and a simple restriction on those who disburse public funds, and is not a grant of special power to Congress making it mandatory to spend all funds voted by Congress. It is further argued that the President has the constitutional duty to "take care that the laws be faithfully executed," including appropriation acts, and that his determination

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[18] Hobbs, op. cit., p. 46.

that times have so changed since the enactment of the appropriation that it is no longer advisable to spend the entire amount or to carry out the contemplated program, is also indisputable.[19] The issue is still a delicate one as evidenced by the objections recently voiced by Senator Carl Vinson over tentative curtailment of the B-70 program, for which Congress had specifically appropriated the money.

Another controversial area which exists between the Bureau of the Budget and the Congress is the Bureau's role in its legislative clearance activities. The Bureau is authorized to review not only legislative proposals which originate within the departments and agencies, it also reviews all enrolled legislation before submission to the President.[20] Therefore, it is not very difficult to understand why a Congressman would feel none too kindly toward the Bureau if the Office of Legislative Reference returned a negative report on his pet project, designed to butter up the voters back home.[21]

Other Congressmen, recognizing the fact that when legislation is vetoed by the President, the veto message is normally written by the Bureau of the Budget, insist that the Bureau is in effect "legislating." In the Bureau's defense in these situations, Mr. Wilkie contends that such protests reflect a failure to understand the Bureau in its true role as an advisor to the

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[19]Horace W. Wilkie, "Legal Basis For Increased Activities Of The Federal Budget Bureau," The George Washington Law Review (April, 1943), p. 287.

[20]Supra, p. 55.

[21]The Washington Star, April 20, 1952, William J. Mayer, p. 4.

President. He claims that the Bureau has no power to pronounce policy save in the name of the President.[22]

The power of the Bureau of the Budget in influencing and determining federal programs has evoked such comments and actions from Congressmen as follows:

> Rep. Daniel J. Flood (D Pa.) March 13 introduced a bill (HR 11419) to abolish the Bureau entirely as an executive arm of the President. Sen. Mike Mansfield (D Mont.) and Reps. F. Edward Hebert (D La.), Herbert Zelenk (D N.Y.) and James Roosevelt (D. Calif.) have introduced bills to prohibit the Budget Bureau from withholding or impounding appropriations or from spending appropriated money for any but the purpose for which Congress earmarked the money. Sen. Lyndon B. Johnson (D Texas) has called the agency "a czar" and Flood has called it "a Frankenstein". Sen. Albert Gore (D Tenn.) has cautioned Congress that the Budget Bureau's operations indicate a "trend away from representative government."[23]

The above item appeared in the Congressional Quarterly Fact Sheet during 1958. It is interesting to note that all of the above comments are coming from Democrats during a Republican administration. In this respect, it would be interesting to learn whether or not these same gentlemen, especially Mr. Johnson, feel the same toward the Bureau of the Budget now that a Democrat is living in the White House.

Regardless of the feeling of Congressmen toward the Bureau in regard to its legislative reference activities, they have learned to respect the weight and muscle of the Bureau's recommendations. Many Congressmen submit proposed bills to the Bureau for analysis before introducing them on "the hill."

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[22] Wilkie, op. cit., p. 290.

[23] "Budget Bureau Vs Congress," Congressional Quarterly Fact Sheet (Week ending 13 June 1958), p. 743.

It has been customary for the Bureau to stay clear of Congressional dealings insofar as testifying before Committees or working jointly with Committee staffs is involved. Contacts established beyond the appropriation staffs have in most cases been quite formalized. However, there are cases where the Bureau has worked hand in glove with Congressional Committees. For example, the Senate Policy Committee started keeping in close touch with Legislative Reference on the status of pending legislation insofar as administration policy is concerned, and the House Rules Committee established the habit of checking directly with the Bureau on nearly all important bills which come before it.[24] These trends may be indicative of even closer relationships between the Bureau and the Congress; however, before any definite conclusions can be drawn, one must always remember the political aspects that are ever present.

The Departments and Agencies

The Budget and Accounting Act of 1921 revolutionized the procedures in use at the time by the departments and agencies in submitting their appropriation requests to the Congress. As we have seen, prior to the passage of the Act, these establishments functioned, for the most part, as separate and independent organizations, each pressing its own special needs upon the Congress.[25] However, since 1921, the various factions of the government were required to submit requests, not only for funds, but also any proposed legislation to the President through the

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[24]Hobbs, op. cit., p. 66.

[25]Supra, pp. 2-3.

Bureau of the Budget for consolidation and review prior to presentation to the Congress. This procedure was recognized at the time as good business practice for a rapidly growing national budget.

Insofar as the establishments were concerned, an extra layer of review and analysis was interposed between themselves and the Congress. Instead of jockeying for position and prestige directly before Congress, they now had to shift their emphasis to the Bureau of the Budget. This one fact alone would cause a certain amount of ill-feeling toward the Bureau, especially if a pet project submitted by an agency was turned down before it even reached Congressional consideration. This feeling on the part of the departments and agencies has in some respects continued to persist up to the present time.

Much of the attitude of the agencies toward the Bureau of the Budget has been more or less of the unofficial variety. For it must be remembered that the budget and programs as presented to Congress by the executive branch, represent the official view of the President and must be defended as such, regardless of the individual aspirations of the various establishments.

The Bureau on the other hand, in making its contribution toward the government's pursuit of the common good, endeavors to guide itself by a unified concept of its functions. Such a concept calls for a vantage point above the particular interests advanced by individual agencies; strong determination to give synthesis to the far-flung governmental activities; full appreciation of

the importance of an objective approach in the discharge of the Bureau's functions; and continuing efforts to inspire and sustain cooperative attitudes on the part of all agencies with which the Bureau has to deal.[26]

As a staff agency, the Bureau of the Budget depends for much of its effectiveness on the support it receives from those who exercise directive power--the President on the one side and the responsible officials of the various levels of the departmental system on the other. In all of these relationships, the Bureau endeavors to demonstrate its capabilities by gaining recognition through the weight of constructive and informed recommendations.[27] In this respect, the Bureau in carrying out its statutory functions or such directives as are given it by the President, is in a position to insist upon compliance. However, the Bureau believes that reliance on authority alone is not a good way to obtain results. Instead, acceptance on their merits of carefully considered propositions by reasonable officials has a more positive and durable effect.[28] Therefore, to attain willing acceptance of its determinations and recommendations as a result of full analysis of each problem before it is one of the Bureau's foremost goals.

In brief, the departments and agencies are duty bound to accept the recommendations and proposals as advanced by the

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[26]U. S., Executive Office of the President, Bureau of the Budget, Staff Orientation Manual, April 1958, p. 29.

[27]Ibid.

[28]Ibid.

Budget Bureau. This acceptance may not, at times, be as willingly as the Bureau would like to have it, but nevertheless compliance for the most part is automatic. Otherwise, the Bureau can force acceptance by virtue of its powers derived from statutory and presidential authority.

CHAPTER V

CONCLUSIONS

One fact which immediately strikes the attention of the student studying the Bureau of the Budget is the wide range and breadth of the activities of the agency. These activities have been developed over a period of four decades and have been derived from statutory and presidential authority. The majority of the functions performed by the Bureau are specific in nature; however, over the years it has served as something of a reviewing agency of things flowing up to the President from the individual departments and agencies whenever they do not fit into the assignments of the other parts of the Executive Office of the President. In this respect, and because the Bureau is that element of the President's staff which represents the most diversified source of technical advice, the Budget Bureau has come to be used by the President in many matters beyond its direct statutory responsibilities.

This use of the Budget Bureau has angered many Congressmen. They feel that the Bureau, when used in this manner is overly dominated by the President and therefore are leary of Congressional instruction.[1] However, it must be remembered that

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[1]Edward H. Hobbs, Behind the President (Washington, D.C.: Public Affairs Press, 1954), p. 68.

the Budget and Accounting Act established the Bureau as a staff agency of the President. Its only direct responsibility to Congress is to furnish such aid and information as may be requested. It is only natural that such aid and information which is requested and furnished reflect the current administration's views, for the Director is the "President's man."

The Budget and Accounting Act also provides that the Director will carry out his duties only "under such rules and regulations as the President may prescribe" or "when directed by the President." Nothing in the Act specified that these delegations of authority from the President to the Director had to be by letter or executive order. As a consequence, the actions of the Director, and in turn the Bureau, have been based largely upon the informal understanding between him and the President and upon implied authority of the Budget and Accounting Act. The President's actions are based upon the Presidential powers imbued in the Constitution and related laws. Thus, the actions of the Bureau are firmly entrenched in legal authority.

Any staff agency which stands astride as many powerful operating agencies and their ambitions as does the Bureau of the Budget is bound to draw some very caustic criticism. Inevitably, in every kind of organization, in or out of government, the individual or unit which plays an active part in guiding the decisions that are taken on financial matters usually will take last place in a popularity contest. This is true of the controller in a private business or in any other similar organization. The Bureau of the Budget in its role of advisor to the President on

all financial matters of the government is no exception. From all indications the Bureau has learned to shoulder criticism of its actions with an attitude of indifference. And why shouldn't it, with the President solidly behind it.

In this regard, there is no doubt as to where the present Budget Director stands in relation to the present administration. President Kennedy in paying tribute to the Bureau on its fortieth birthday said:

> The objectivity and deep knowledge of the process of government of the Bureau's staff have made it a highly valued part of the President's Executive Office. One President is said to have called the Bureau 'his good right arm.' I should like to second that motion. The work of the President would be very difficult indeed without the staff support of the Budget Bureau.[2]

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[2]Sidney Hyman, "Our Head Budgeteer: A Close-in View," New York Times Magazine, August 20, 1961, p. 3.

APPENDIX A

MAIN FUNCTIONS OF THE BUREAU OF THE BUDGET AS DEFINED IN EXECUTIVE ORDER NO. 8248 OF SEPTEMBER 8, 1939

To assist the President in the preparation of the budget and the formulation of the fiscal program of the Government.

To supervise and control the administration of the budget.

To conduct research in the development of improved plans of administrative management, and to advise the executive departments and agencies of the Government with respect to improved administrative organization and practice.

To aid the President to bring about more efficient and economical conduct of Government service.

To assist the President by clearing and coordinating departmental advice on proposed legislation and by making recommendations as to presidential action on legislative enactments, in accordance with past practice.

To assist in the consideration and clearance and, where necessary, in the preparation of proposed Executive orders and proclamations, in accordance with the provisions of Executive Order 7298 of February 18, 1936 (now Executive Order No. 10006 of October 9, 1948).

To plan and promote the improvement, development, and coordination of federal and other statistical services.

To keep the President informed of the progress of activities by agencies of the Government with respect to work proposed, work actually initiated, and work completed, together with the relative timing of work between the several agencies of the Government; all to the end that the work programs of the several agencies of the executive branch of the Government may be coordinated and that the monies appropriated by the Congress may be expended in the most economical manner possible with the least possible overlapping and duplication of effort.

APPENDIX B

PRINCIPLE STATUTES RELATING TO THE BUREAU OF THE BUDGET (Annotated)

Budget and Accounting Act of 1921. (42 Stat. 20; 31 U.S.C. 1-24)
Establishes Bureau of the Budget with primary responsibility for preparing an annual budget and any supplemental or deficiency estimates.

Reorganization Plan I of 1939. (53 Stat. 1423; 5 U.S.C. 133t)
Transfers the Bureau of the Budget from the Treasury Department to the Executive Office of the President. Functions of the Central Statistical Board and the Central Statistical Committee transferred to Bureau of the Budget. Effective date July 1, 1939. (53 Stat. 813; 5 U.S.C. 133s)

Federal Reports Act of 1942. (56 Stat. 1078; 5 U.S.C. 139-139f)
Coordinates Federal reporting and statistical services to eliminate duplication and reduce cost of such services and to minimize the burdens of furnishing information to federal agencies.

Government Corporation Control Act of 1945. (59 Stat. 597; 31 U.S.C. 847, 849, 852)
Authorizes Bureau to review the budgets and programs of wholly-owned Government corporations.

Classification Act of 1949. (63 Stat. 954; 5 U.S.C. 1151)
Gives the Bureau authority to prescribe regulations for the systematic review by the departments of their operations.

Travel Expense Act of 1949. (63 Stat. 166; 5 U.S.C. 835-842)
Authorizes Bureau to fix rates for travel allowances.

Budget and Accounting Procedures Act of 1950. (64 Stat. 832; 31 U.S.C. 2, 11, 14, 16, 18a, 18b, 22-24, 65-67, 581-581c, 847)
Amplifies the Budget and Accounting Act by clarifying the Bureau's responsibilities, especially in the fields of administrative analysis and integration of statistical work, and by providing a continuous program for the improvement of accounting and financial reporting throughout the Government.

Section 3679, Revised Statutes, as amended. (64 Stat. 765; 31 U.S.C. 665)

Prescribes procedures by which the Director apportions appropriations, provides for agency systems of administrative control of funds to be approved by him, and authorizes him to establish reserves in appropriations and funds. Authority to make such apportionments formerly rested on Executive Order No. 6166 of June 10, 1933.

Act of July 15, 1954. (68 Stat. 482; 5 U.S.C. 46e)

Confers upon the Director authority to approve agency regulations dealing with the collection of indebtedness on the part of Government employees as a result of erroneous payments made to them.

Federal Employees Uniform Allowances Act. (68 Stat. 1114; 69 Stat. 49; 5 U.S.C. 2133)

Charges the Director with the duty to promulgate rules and regulations governing the administration of Title IV of this act, dealing with uniform allowances.

Act of August 1, 1956. (70 Stat. 782; 31 U.S.C. 11, 24, 18c, 66a)

Amends the Budget and Accounting Act and the Budget and Accounting Procedures Act, mainly to improve further governmental budgeting and accounting methods and procedures. Emphasizes application of principles of accrual accounting and cost based budgeting.

APPENDIX C

PERTINENT EXECUTIVE ORDERS RELATING TO THE BUREAU OF THE BUDGET (Annotated)

Executive Order 8248, Sept. 8, 1939.
Specifies the Bureau's functions as part of the Executive Office of the President.

Executive Order 9094, Mar. 10, 1942.
Abolishes Board of Surveys and Maps and authorizes Bureau to coordinate and plan federal mapping and chart-making activities.

Executive Order 9384, Oct. 4, 1943.
Provides for review of federal public works and improvement projects, and preparation of long-range plans with respect to such projects.

Executive Order 10006, Oct. 9, 1948.
Provides for Bureau clearance for the President of executive orders and proclamations.

Executive Order 10033, Feb. 8, 1949.
Requires approval of Director for responses by federal agencies to official statistical inquiries from intergovernmental organizations.

Executive Order 10072, July 29, 1949.
Provides for continuing action to improve the management of the executive branch, and requires the Director to assist agencies in planning such programs and to review their efforts.

Executive Order 10253, June 11, 1951.
Delegates to the Director authority given to President in Section 103 of the Budget and Accounting Procedures Act of 1950 to develop programs and to issue orders and regulations concerning gathering, analyzing, and disseminating statistical information.

Executive Order 10530, May 10, 1954. Amended by Executive Order 10759, Mar. 17, 1958.
Delegates to the Director the exercise of statutory authorities of the President involving (1) transfers of balances of appropriations, (2) interagency land transfers, land acquisitions, and contracts for land acquisitions, and (3) regulatory functions with respect to travel, transportation of household goods, and similar matters.

Executive Order 10559, Sept. 8, 1954.
Delegates to the Director the President's authority to allocate to agencies funds appropriated to the President for management improvement.

Executive Order 10560, Sept. 9, 1954. Amended by Executive Order 10708, May 6, 1957, and Executive Order 10746, Dec. 12, 1957, and Executive Order 10827, June 25, 1959.
Delegates to the Director the President's authority to fix amounts of foreign currencies to be used for various purposes, to waive certain statutory requirements, and to take related actions.

Executive Order 10579, Nov. 30, 1954.
Requires the Director to make a final decision on appeal by an agency from any determination by the Administrator of General Services with respect to the establishment of an interagency motor vehicle pool or system.

Executive Order 10729, Sept. 16, 1957.
Makes it a duty of the Bureau to collaborate with the Special Assistant to the President for Personnel Management in the improvement of personnel management throughout the federal government.

Executive Order 10766, May 1, 1958.
Delegates to the Director the President's authority to approve regulations on the rental of substandard housing for members of the uniformed services.

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